

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

KENNETH GREGORY WILLIAMS,

09-CV-799-AC

Plaintiff,

ORDER

v.

STEVE SHELTON, Oregon  
Department of Corrections  
Health Service Director; MAY  
RAINSM (CCCI) Health Service  
Manager; D. SNIDER (CCCI);  
DOUG BUTLER (ODOC) Health  
Service Pharmacist,

Defendants.

KENNETH GREGORY WILLIAMS  
4202792  
Oregon State Penitentiary  
2605 State Street  
Salem, OR 97310-0505

Plaintiff, *Pro Se*

**JOHN KROGER**

Attorney General

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Attorneys for Defendants

**BROWN, Judge.**

Magistrate Judge John V. Acosta issued Findings and Recommendation (#36) on February 24, 2010, in which he recommended the Court grant in part and deny in part Defendants' Motion (#14) to Dismiss for Failure to Exhaust. Plaintiff filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

In his Objections, Plaintiff reiterates the arguments in his Memorandum in Opposition to Defendants' Motion to Dismiss. This Court has carefully considered Plaintiff's Objections and

concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#36) and, accordingly, **GRANTS** Defendants' Motion (#14) to Dismiss for Failure to Exhaust as to Plaintiff's claims based on Grievance No. M08-12-29 and **DENIES** Defendants' Motion (#14) as to Plaintiff's claims based on his January 10, 2009, discrimination complaint.

IT IS SO ORDERED.

DATED this 11<sup>th</sup> day of May, 2010.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge